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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	No. CR-12-00086 YGR
)	
Plaintiff,)	STIPULATION AND PROPOSED
)	ORDER TO CONTINUE SENTENCING
v.)	HEARING DATE TO DECEMBER 6, 2012
)	
DAMON FISH,)	Date: October 25, 2012
)	Time: 2:00 p.m.
Defendant.)	
)	
)	
)	

The above-captioned matter is set on October 25, 2012 before this Court for a sentencing hearing. The parties jointly request that the Court continue the matter to December 6, 2012, at 2:00 p.m., before this Honorable Court so that the defense can have additional time to discuss the Pre-Sentence Investigation Report with Mr. Fish and to collect mitigation records that can be presented to the Court at sentencing.

On February 9, 2012, the Grand Jury charged Damon Fish a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g). On August 2, 2012, Mr. Fish pleaded guilty to the Indictment pursuant to a Federal Rule of Criminal Procedure 11(c)(1)(C) agreement with the government. The Court set this matter for sentencing on October 25, 2012.

The parties jointly request that the Court continue the sentencing hearing to December 6,

1 2012. The first reason for this continuance is that the defense would like additional time to
2 discuss the final Pre-Sentence Investigation Report (PSR) with Mr. Fish because the offense
3 level in the PSR differs from the offense level as calculated in the parties' binding plea
4 agreement. Defense counsel needs additional time to assess and to confirm the Probation
5 Office's Guidelines' calculation and to advise Mr. Fish. For example, the Probation Office has
6 ordered Mr. Fish's parole records, which affected his offense level calculation in the PSR, and
7 the Probation Office has agreed to allow the defense to review these records.

8 The second reason for this request is because a defense investigator recently determined
9 that records from the Department of Social Services exist for Mr. Fish concerning his placement
10 in foster care as a child. Because the records are twenty years old, the defense erroneously
11 believed that these records were purged. After further investigation, the defense located Mr.
12 Fish's file. The defense has ordered the file (with a release from Mr. Fish) but the records have
13 not yet been produced to the defense. Because these records relate to Mr. Fish's background and
14 history – a sentencing factor under 18 U.S.C. § 3553(a) – the defense would like additional time
15 to obtain these records so that this information may be presented to the Court at sentencing.

16 Defense counsel spoke with the Probation Officer assigned to this case, John D. Woods.
17 Mr. Woods does not oppose the continuance and is available on December 6, 2012.

18 Finally, because Mr. Fish has pleaded guilty, the parties are in agreement that the Speedy
19 Trial Act does not apply.

1 DATED: October 17, 2012

_____/S/
ANDREW HUANG
Assistant United States Attorney

4 DATED: October 17, 2012

_____/S/
ANGELA M. HANSEN
Assistant Federal Public Defender

ORDER

Based on the reasons provided in the stipulation of the parties above, the Court hereby
FINDS:

1. Given that the defense needs additional time to review and to confirm the Guidelines calculations in the final PSR because the offense level in the PSR differs from the offense level that was calculated in the parties' binding plea agreement;
2. Given that the defense has requested but has not yet obtained mitigation information that the defense believes is relevant to the Court's sentencing determination;
3. Given that the Government and Probation Office do not oppose this continuance; and
4. Given that Mr. Fish has pleaded guilty and that the Speedy Trial Act does not apply;

Based on these findings, IT IS HEREBY ORDERED that the sentencing hearing date of October 25, 2012, scheduled at 2:00 p.m., is vacated and reset for December 6, 2012, at 2:00 p.m.

DATED: October 22, 2012


YVONNE GONZALEZ ROGERS
United States District Judge